

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

ER02025956

January 2, 2003

**ADOPTION OF REGULATIONS ON AN EMERGENCY BASIS
PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 11346.1(b) AND
FINDING OF EMERGENCY**

CALIFORNIA LOW COST AUTOMOBILE INSURANCE PROGRAM

California Insurance Commissioner Harry W. Low finds that an emergency exists, and that the following amendment of the California Low Cost Automobile Insurance Program's Plan of Operations, referenced in Title 10, Chapter 5, Subchapter 3, Section 2498.6 of the California Code of Regulations, is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SPECIFIC FACTS SHOWING THE NEED FOR IMMEDIATE ACTION

Senator Escutia's Low Cost Auto Insurance Program legislation, Stats. 2002, chapter 742, (formerly SB 1427) was approved by the Governor on September 20, 2002. The legislation amended California Insurance Code Sections 11629.71 and 11629.91, requiring that, effective January 1, 2003, uninsured motorists and medical payments coverages be offered to eligible consumers. The legislation does not specify a rate, but merely states that additional premiums are authorized.

The low cost automobile insurance pilot programs were established within the California Automobile Assigned Risk Plan (CAARP) and follow CAARP procedures where appropriate and not inconsistent with the low cost automobile insurance statutes. Under the assigned risk plan, applicants for insurance are randomly assigned to a licensed automobile insurer and that insurer issues and services the policy in accordance with the Plan. Low cost automobile insurance pilot program rates are uniform so that the customer pays the same rate irrespective of what company the consumer is assigned.

Consistent with Insurance Code Section 11580.2, the legislation provides for uninsured motorists coverage at the lower liability limits of the underlying low cost auto insurance policy. Because the low cost auto insurance policy is at lower liability limits than basic limits policies in the voluntary market, rates must be independently calculated. Thus, establishing uniform rates for the additional coverages requires significant and time-consuming actuarial efforts.

In contemplation of implementation of the legislation, and in accordance with California Insurance Code Sections 11623, 11629.79, and 11629.99, the Department sought the advice of CAARP. At its October 2002 regular meeting, CAARP's Advisory Committee requested its

actuarial staff to prepare a rate proposal. At a specially-convened teleconference on November 14, 2002, CAARP's Advisory Committee endorsed the concept of uniform rates for these additional coverages and a \$1000 limit for the medical payments coverage, consistent with the assigned risk plan. On November 21, 2002, CAARP's Advisory Committee proposed to the Commissioner rates for these coverages. Subsequently, the Department reviewed CAARP's methodology and approach, but determined that rates different than those proposed by CAARP should be established. In determining rates for the additional coverages mandated by the legislature, the Department followed the same basic approach relied upon by the legislature in setting the initial basic rates for the low cost auto policy and also followed by CAARP in its basic rate recommendation to the Commissioner on June 21, 2002 as a rate option. Those rates are the ones proposed for adoption in this emergency regulation.

To establish uniform rates for uninsured motorists and medical payments coverages, the Plan of Operations must be amended. However, there is not sufficient time to follow the CAARP and low cost automobile insurance pilot programs' statutory rate-setting procedures.

Because SB 1427 requires uninsured motorists and medical payments coverages to be offered as of January 1, 2003, adoption of rates on an emergency basis is the only way to implement rates to allow insurers and consumers to determine the appropriate premium charge as soon as possible.

AUTHORITY AND REFERENCE CITATIONS

The Insurance Commissioner proposes the adoption of these regulations pursuant to the authority vested in him by Sections 11620, 11624, 11629.7, 11627.72, 11629.79, 11629.9, 11629.92 and 11629.99 of the California Insurance Code. The purpose of these regulations is to implement, interpret, and make specific the provisions of Sections 11629.7-11629.995 of the Insurance Code and 2002 Cal. Stat., chapter 742 (SB 1427 Escutia), operative January 1, 2003.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Insurance Code Sections 11629.7 through 11629.995 establish, within the California Automobile Assigned Risk Plan (CAARP), established under Section 11620 of the Insurance Code, low-cost automobile insurance pilot programs for the County of Los Angeles and the City and County of San Francisco.

Because the pilot programs are established and administered through CAARP, CAARP procedures are applied to the low cost automobile insurance pilot programs where appropriate and not inconsistent with the low cost automobile insurance statutes.

Existing law, Insurance Code Sections 11629.7 and 11629.9, requires the Commissioner, after a public hearing, to approve or issue a reasonable plan for the equitable apportionment, among insurers, of those persons eligible to purchase a low-cost automobile insurance policy through the pilot programs. The plan, approved by the Commissioner, is referenced in Title 10, Section 2498.6 of the California Code of Regulations. This plan contains rules, rates, and procedures for adjusting rates.

2002 Stat., Chapter 742 (formerly SB 1427, Escutia), California Insurance Code Sections 11629.71 and 11629.91, require that, effective January 1, 2003, uninsured motorists and medical payments coverages be made available to eligible consumers. The legislation does not specify a rate, but merely states that additional premiums are authorized.

The specific objective of these emergency regulations is to implement, interpret and make specific the provisions of 2002 Stat., chapter 742 by establishing uniform rates for the specified additional coverages, consistent with the purpose of the Low Cost Auto Insurance pilot programs.

Section 25

This regulation amends the low cost automobile insurance pilot programs' Plan of Operations to require that uninsured motorists and medical payments coverages be offered to eligible consumers, in conformance with 2002 Stat., chapter 742 (formerly SB 1427 (Escutia)). The proposed emergency regulation also specifies coverage limits for the uninsured motorists coverage equivalent to the underlying liability limits of the low-cost auto policy, consistent with California Insurance Code Section 11580.2, and indicates these amounts satisfy the requirements of the California Insurance Code and California Vehicle Code, as provided by the newly enacted legislation. In addition, the regulation specifies limits for the medical payments coverage, following CAARP's coverage limits. The purpose of adoption of this regulation is to conform to the mandates of 2002 Stat., chapter 742 and clarify the obligations of the assigned insurers.

Section 27

This regulation sets the rates for the legislatively-mandated additional coverages, effective January 1, 2003, following the rate approach of the initial legislation setting the program's basic rates for Los Angeles and City and County of San Francisco residents. The purpose of this regulation is to set uniform rates, consistent with the objective of the Low Cost Auto program to make insurance available to low income good drivers.

The proposed text for Section 25 and Section 27 is attached.

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

STATUTORY REQUIREMENTS OF INSURANCE CODE SECTION 12921.7 SATISFIED

Pursuant to California Insurance Code Section 12921.7, a Notice of Proposed Emergency Regulations and text of the emergency regulation Plan of Operations was provided to every person, group, and association who has previously filed a request for notice of regulatory action with the Commissioner on December 19, 2002, which is not less than five (5) working days prior to submission of the rulemaking file to the Office of Administrative Law. The Notice of Proposed Emergency Regulations and regulation text were also available on the Department's web site. A copy of that notice, text, and proof of mailing are included in the emergency rulemaking file.

WRITTEN PUBLIC COMMENTS AND RESPONSES

Written public comments received during the statutory five-day notice period prior to submission of the rulemaking file to the Office of Administrative Law and the Department's response are separately included within the rulemaking file.

NOTICE OF PROPOSED RULEMAKING RELATED TO THIS EMERGENCY FILING

The Department has not yet issued a Notice of Proposed Action for the permanent adoption of these regulations. The Department anticipates issuing a Notice of Proposed Action and Notice of Public Hearing by January 31, setting a public hearing for 60 days thereafter.

LOCAL MANDATE DETERMINATION

The Insurance Commissioner has determined that Sections 25 and 27 of the Plan of Operations do not impose a program mandate on local agencies or school districts.

COST ESTIMATE

The Commissioner has also determined that the regulation will not result in any costs or savings to any state agency, local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies. Nor will the regulations affect federal funding to the State.

Questions regarding this emergency rulemaking file should be directed to:

California Department of Insurance
Legal Division, Rate Enforcement Bureau
Attn: Mary Ann Shulman
45 Fremont Street, 21st Floor
San Francisco, California 94105
415/538-4133